

Report to	<b>Planning Committee</b>
Date	<b>9 April 2015</b>
By	<b>Director of Planning</b>
Local Authority	<b>Wealden District Council</b>
Application Number	<b>SDNP/14/03936/FUL</b>
Applicant	<b>The Gilbert Estate</b>
Application	<b>Proposed change of use of agricultural land to provide no.9 C3 residential dwellings and no. 2 C3 flats</b>
Address	<b>Land at The Fridays, Gilberts Drive, East Dean, East Sussex, BN20 0DG</b>

---

**Recommendation: That planning permission be refused for the reasons set out in paragraph 10.1 of this report.**

---

### **Executive Summary**

This proposal is for a development of 11 dwellings, including 4 affordable homes on the southern edge of East Dean village, an unclassified settlement with no built up area boundary, on a greenfield site. On this basis, countryside policies would normally seek to resist such developments. However, the site has come forward in response to the allocation for 10 dwellings in policy WCS 6 of the Joint Core Strategy. The National Park has not produced a Site Allocations DPD to date and this will not come about until the Core Strategy is adopted in June 2017. This application has to be considered in light of these time scales and the need to show a five year housing land supply. Whilst it is considered that the development would have some localised impact it is not considered to be a major development for the purpose of paragraph 116 of the NPPF. Nevertheless, whether the development preserves or enhances the natural beauty of the SDNPA remains a key issue. The Landscape Officer is satisfied that the proposal as amended is acceptable retaining the view corridor through to the land to the north and the amendments made to the design of the scheme are considered to go far enough to ensure that the scheme would not be detrimental to the visual amenities of the area.

Overall, the scheme is considered to comply with the purposes of the national park and whilst coming ahead of a formal site allocations DPD it is a site that has been considered in the SDNPA SHLAA January 2015 as having potential for development.

Notwithstanding this, the proposal is located alongside a recreation ground and refusal is recommended due to the impact the proposal could have on the long term retention and use of the recreation ground for cricket, in the absence of a legal agreement to secure the relocation of the cricket square.

This application is reported to Committee due to the number of representations received.

#### **I. Site Description**

- I.1 The site is located on the southern edge of the village of East Dean within the Wealden District of the South Downs National Park. It is an oblong shape and is currently in agricultural use. It is accessed by a farm gate from Gilberts Drive.
- I.2 The site is located at the point of transition from East Dean to the surrounding open landscape. There is a linear row of 1950's houses to the north (beyond an associated car

parking area); the cricket pitch to the south; a couple of sporadic dwellings to the west and a row of dwellings on higher land to the east beyond the highway.

- 1.3 The wider landscape character of the area is open vistas with rising land to the west and to the distant north. This creates a perception of being in a valley with rolling sides and an open area to the south. The South Downs Character Area Assessment 2011 defines the landscape character as Ouse to Eastbourne Open Downs.

## 2. Relevant Planning History

- 2.1 There have been no previous planning applications relating to the site. A larger L-shaped area including the site and extending north behind the linear housing development to the north was put forward for consideration through both the SHLAA to the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan 2013 (referred to as the Joint Core Strategy) and the more recently published SDNPA SHLAA 15 January 2015.

## 3. Proposal

- 3.1 The application seeks planning permission for 11 dwellings comprising of:
- 1 x 4-bed houses;
  - 6 x 3-bed houses;
  - 2 x 2-bed house;
  - 2 x 1-bed flats.
- 3.2 The 1 x 3 bed house, 1 x 2 bed house and 2x 1 bed flats would be 'affordable'. This equates to 36.4% of the total.
- 3.3 Amended plans have been received during the progress of the application. The amendments to the scheme have included the relocation of the large house; the elimination of flat roof elements; the breaking up of the terrace; altering driveways, parking areas and accesses; the provision of traditional flint walls; altering chimneys; removal of pergolas; and the reduction in tile hanging.

## 4. Consultations

- 4.1 **East Dean Parish Council:** The Parish initially submitted an objection to the Statement of Community Involvement which it considered did not reflect what had actually happened. In September 2014 the Parish raised objection to the overall scheme on the grounds:
- It has not been established that this is the most suitable site for development in the village;
  - Prematurity;
  - Extends footprint of village;
  - Unacceptable impact on the landscape character;
  - This is a major development;
  - Undesirable precedent;
  - Will not meet the housing needs of the village – smaller dwellings are required suitable for elderly residents to downsize and the majority of the houses will remain in the ownership of the Gilbert Estate;
  - Concern re impact on the use of the adjacent recreation ground;
  - Highway safety

The Parish Council continues to object to the amended plans on the grounds that:

- The objections raised by the Landscape Officer, the Design Officer, and Sport England have not been addressed;
- The previous objections above have not been addressed and still stand;
- Some tree planting appears to be shown on Council land outside the red line of the site.

The Parish Council supports the argument in favour of the application being treated as a major development. Finally, it urges the SDNPA Committee not to be deterred from refusing the application on the grounds that the applicant might appeal.

- 4.2 **Natural England:** No objection raised in respect of the proximity of the application site to the Seaford to Beachy Head Site of Special Scientific Interest (SSSI).
- 4.3 **Sport England:** Objection raised to the proposal, but considers that its objection can be overcome, if the cricket square is relocated 20 metres to the south and that it is re-constructed to English Cricket Board standards.
- 4.4 **ESCC Archaeology Officer:** No objection raised subject to conditions.
- 4.5 **ESCC Ecology Officer:** No objection raised, subject to recommended mitigation measures and enhancements that can be ensured by appropriate planning conditions.
- 4.6 **ESCC Highways Officer:** No objection raised subject to conditions and an appropriate agreement under Section 278 with ESCC to ensure those requirements which can not be secured by condition are carried out.
- 4.7 **Wealden Housing Officer:** No objection raised subject to an appropriate legal agreement ensuring the provision of 4 affordable units for rent to be allocated to those on the Wealden District Council's Housing Register in accordance with the Council's Rural Lettings policy giving preference to those with a connection to East Dean.
- 4.8 **ESCC Landscape Officer:** Support revised application from landscape and visual perspective subject to the detailed design aspects for the planting proposals. (landscaping amendments include setting back of the garden boundaries to the southern boundary creating a wider verge and the opportunity for planting and an area of buffer planting
- 4.9 **SDNPA Design Officer:** . Objection raised to the original scheme, concerned with the scale and massing of the large house at the western end; the parking, drives and access; the amenity space to plots 5-11; and the overall design approach which was considered to create a singular monolithic impression, lacking sufficient subtlety and responsiveness to the historic village. Objection to amended plans: creation of a buffer strip between the south and west fields, inappropriate boundary treatment (fences and hedges), unattractive parking areas to plots 5-7, fussy internal parking arrangement and also concerns about building types.
- 4.10 **Southern Water:** No objection raised. There is sufficient capacity to accommodate the scheme.

## 5. Representations

- 5.1 77 third-party representations, including from East Dean & Friston Residents Association, a group of 22 residents known as Friends & Residents of East Dean Against The Fridays and the Chairman of East Dean & Friston Cricket Club, have been received objecting to the proposal as originally submitted and as amended. The representations raised the following issues:
  - Contrary to the aims of the national park designation;
  - Major development contrary to paragraph 116 of NPPF;
  - Detrimental to visual amenity;
  - Increase traffic and highway safety issues;
  - Houses too big and imposing;
  - Uses up whole allocation to 2027 in one go;
  - Will not fulfil housing need;
  - Overdevelopment;
  - Alternative sites have not been considered;
  - Impact on cricket pitch use;
  - Prematurity;

- Design out of character and impacts on setting of Conservation Area;
- Unsustainable;
- Contrary to Core Strategy Vision;
- SHLAA does not make policy;
- May lead to further development.

One letter of support has been received on the grounds that it will provide carefully planned housing for the village.

## **6. Planning Policy Context**

6.1 Applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise. The statutory development plan in this area is the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan 2013 (Joint Core Strategy) and the saved policies of the Wealden Local Plan 1998.

### National Park Purposes

6.2 The two statutory purposes of the SDNP designation are:

- To conserve and enhance the natural beauty, wildlife and cultural heritage of their areas;
- To promote opportunities for the public understanding and enjoyment of the special qualities of their areas.

If there is a conflict between these two purposes, conservation takes precedence. There is also a duty to foster the economic and social well being of the local community in pursuit of these purposes.

### National Planning Policy Framework and Circular 2010

6.3 Government policy relating to National Parks is set out in English National Parks and the Broads: UK Government Vision and Circular 2010 and The National Planning Policy Framework (NPPF) which was issued and came into effect on 27 March 2012. The Circular and NPPF confirm that National Parks have the highest status of protection and the NPPF states at paragraph 115 that great weight should be given to conserving landscape and scenic beauty in the national parks and that the conservation of wildlife and cultural heritage are important considerations and should also be given great weight in National Parks.

6.4 Paragraph 116 of the NPPF follows on by stating that:

“Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:

- The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
- The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
- Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.”

The matter of whether the development is major or not for the purposes of paragraph 116 is covered below.

6.5 The development plan policies listed below at section 7 have been assessed for their compliance with the NPPF and are considered to be compliant with the NPPF. The Joint Core Strategy policy being the more up-to-date and recently adopted takes precedence.

### The South Downs Partnership Management Plan

6.6 The South Downs Partnership Management Plan (SDPMP) was adopted on 3 December 2013. It sets out a Vision and long term Outcomes for the National Park, as well as 5 year Policies and a continually updated Delivery Framework. The SDPMP is a material consideration in planning applications and has some weight pending adoption of the SDNP Local Plan. The relevant policies are: Policy 1 – Conserve and Enhance Natural Beauty and

Special Qualities; Policy 3 – Dark Skies; Policy 48 – Social and Economic Well-being; Policy 50 – Housing and other Development and Policy 56 – Energy Efficiency.

## **7. Planning Policy**

7.1 The statutory development plan in this area is the Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan 2013 (Joint Core Strategy) and the saved policies of the Wealden Local Plan 1998.

7.2 The relevant policies of the Joint Core Strategy are:

WCS2 Distribution of Housing Growth

WCS6 Rural Areas Strategy

WCS8 Affordable Housing

WCS7 Effective Provision of Infrastructure

WCS12 Biodiversity

WCS13 Green Infrastructure

7.3 The relevant Saved Policies in the Wealden Local Plan 1998 are:

GD2 Outside Development boundaries

EN14 Landscaping within developments

EN27 Layout and Design of development

TR3 Traffic, access and public transport

TR16 Car parking

## **8. Planning Assessment**

### Introduction

8.1 The application is for 11 dwellings, including 4 affordable units. The Joint Core Strategy 2013 includes an allocation for 10 dwellings in East Dean. This application is submitted in advance of any specific site allocation but is put forward on the basis that the most up-to-date development plan requires an allocation for 10 dwellings to be made in the plan period up to 2027. In principle, therefore, a development of around 10 dwellings in the village could be considered acceptable though its precise location would normally be established through a Site Allocations DPD. In relation to the SDNP such a document is unlikely to come forward in the short term as the SDNPA seeks to bring forward its own Core Strategy first with an estimated adoption date of June 2017; therefore, this application has to be considered on its merits in light of the existing policy framework. The key issues in this case are:

- The principle of development and whether the proposal should be regarded as a major development;
- Whether the proposed development would conserve or enhance the natural beauty of the SDNP – issues of landscape and design;
- The provision of affordable housing and housing need;
- The impact on the adjoining recreation ground; and
- Other general planning issues, such as highway safety.

### Principle of development

8.2 Paragraph 14 of the NPPF states at the heart of the NPPF is the presumption in favour of sustainable development. For decision taking this means, unless material considerations indicate otherwise, granting permission for proposals which accord with the development plan. Where the development plan is absent, silent or relevant policies are out-of-date; this means granting permission unless, as in this case, specific policies in the NPPF indicate development should be restricted. The key policies which deal with development in National Parks are set out in paragraphs 115 and 116. Paragraph 115 of the NPPF states that great weight should be given to conserving landscape and scenic beauty in National Parks, which have the highest status of protection in relation to landscape and scenic beauty. It goes on to

say that the conservation of wildlife and cultural heritage are important considerations in a National Park and should be given great weight. This does not rule out development per se.

Paragraph 116 of the National Planning Policy Framework – Major development?

- 8.3 Paragraph 116 of the NPPF, however, goes further. It states that planning permission should be refused for major developments within these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest.. Consideration then has to be given as to whether this proposal is a ‘major development’ as referred to in paragraph 116 of the NPPF when considering the principle of development.
- 8.4 The NPPF does not provide a definition of what constitutes ‘major development’. The Authority has sought legal advice on the definition of major development from James Maurici QC, the most recent guidance being given in October 2014. The Maurici legal opinion provides guidance on the definition of major development within National Parks. The opinion advises that major development is any development which, by reason of its scale, character or nature, has the potential to have a serious adverse impact on the natural beauty, recreational opportunities, wildlife or cultural heritage provided by a National Park. Obviously, the assessment of whether the proposal is major is therefore a matter of judgement based on all the circumstances, including the local context.

There have been a number of appeal decisions and judgements, including some within the National Park, where the matter of defining whether a development is major has been debated. The main thrust of such judgements and decisions, returns to the matter of judgement based on all the circumstances and context of the site in relation to the surrounding area. Whilst there have been a number of proposals for larger schemes that have not been considered to be major this has been based on context. In terms of comparable cases in terms of size of a scheme, a case in Staunton (Colefield), Gloucestershire, where an Inspector came to the conclusion that a scheme for 15 dwellings in an AONB was considered to be a major development (APP/P1615/A/13/2204158). This conclusion was based on the scheme with regard to the limited size of Staunton and to the location and extent of development in recent years. Of particular importance, in terms of context the village in question was significantly smaller than East Dean and therefore proportionately it is understandable why the Inspector came to that conclusion.

A recent decision within the National Park at Selborne also adds weight to this (APP/Y9507/A/14/2220580) where the Inspector confirmed:

“Selborne is a village of modest scale with a relatively limited range of facilities. According to the Selborne Village Community Plan there were 309 households in the parish when the Plan began, rising to 310 before completion. The 10 dwellings now proposed represent an increase of just under 3%.”

The inspector then concluded:

“The local context is that of a village, albeit one with significant landscape and heritage constraints on development. Nonetheless, the term major development, when given its ordinary meaning, cannot reasonably be taken to include a scheme of 10 dwellings abutting the settlement boundary of a modest sized village.”

Given the above, it is important therefore to set this site in its context before a conclusion is reached on whether it could be considered as a major.

- 8.5 The application site is a greenfield site which lies outside of any settlement boundary; the settlement boundary was removed in the Joint Core Strategy, as ‘East Dean & Friston’ was considered to be a settlement which is ‘not fully accessible and does not provide the facilities to meet the day to day needs of residents’. The development proposed is for a total of 11 units, which in terms of its relationship to East Dean & Friston, is a relatively small increase in the number of dwellings. (The Census 2011 indicates that there are 772 households in East Dean and Friston Parish; East Dean Village and the adjoining Friston form the main settlement area) This further provides context of whether it could be defined as a major when considered alongside the decision reached in relation to Staunton.. If the existing settlement was considerably smaller, so that proportionately the proposal would represent a

significant development, then a development of 11 dwellings could well be seen as major: however, that is not the case here.

- 8.6 Local residents have put forward an argument that the proposal can be considered as significant in that it relates to the southern part of the settlement of East Dean where very little development has occurred and takes on a more sensitive landscape character compared to the development to the north. Whilst this point is noted, one must always have regard to the full settlement of the village which is only separated by a road. One could always seek to focus on one particular part of the village, but even the area of Gilberts Drive must be seen in the context of the village as a whole and on this basis, it is not considered that the focus purely on Gilberts Drive is a reasonable assumption to make in weighing up the significance of the proposal.
- 8.7 Moreover, the impact of the development is localised to the southern end of the village and is set away from the historic core and Conservation Area of East Dean; adjoining the linear row of 1950's houses, fronting onto Gilberts Drive. Had the proposed development adjoined the Conservation area, its significance would be far greater.
- 8.8 Overall, then, it is concluded, on balance that this proposal is not a major development for the purposes of paragraph 116 of the NPPF as it would not be considered to have the potential to have a serious adverse impact on the local beauty of the area recreational opportunities, wildlife and cultural heritage. This conclusion is considered to be sound based on the Maurici opinions and appeal decisions gained over recent years. On this basis the application still needs to be considered in light of other policies including landscape, design and others, but is not to be considered as an application that should be refused unless exceptional circumstances requiring specific evidence as set out in paragraph 116 can be shown.
- 8.9 Local residents also have put forward the argument that there is nothing within the Local Plan policy which confirms that the allocation should be met on one site, which is acknowledged. Notwithstanding that this may be the case; one must look at the possibility of one or a variety of other sites being able to meet this need. Whilst it could be argued that the land to the east of the Vicarage in Gilberts Drive may well have potential to provide some dwellings, there is no certainty that other sites would be provided, given the difficulty in subdivision of sites impacting on the spacious character of residential development in the village. In addition, one must acknowledge that a piecemeal approach to meeting the allocation will probably not enable affordable housing to be secured whereas the current scheme does provide an element of affordable housing.
- 8.10 As there is no settlement boundary round East Dean and this is a greenfield site adjoining the edge of the village, countryside policies would normally apply, which seek to protect the countryside for its own sake. Saved Policy GD2 states that outside development boundaries, development will be resisted unless it is in accordance with specific policies in this Plan.
- 8.11 The most up-to-date development plan policy is Policy WSC6, Rural Areas Strategy of the Joint Core Strategy and whilst it is this policy that removes the settlement boundary around East Dean, it indicates the proposed scale of additional housing development to be allocated up to 2027; for East Dean this is 10 net additional dwellings. As part of the evidence base behind the Joint Core Strategy in the Wealden District SHLAA a larger L-shaped area including the site and extending north behind the linear housing development to the north was included as a potentially suitable site. It is noted that the SHLAA does not form planning policy and indeed paragraph 6.46 of the Joint Core Strategy states that 'it is not the function of the CS to allocate precisely where this development will take place'. The National Park is in the process of producing its own Park wide Core Strategy with an estimated adoption dated of June 2017; an allocations document would follow that. This could be several years away. It could be argued, then, that the development plan is absent on this particular point, so that an application for around 10 dwellings would accord with the most up-to-date policy and could in principle be considered acceptable.
- 8.12 Concern has been raised by residents that the Core Strategy mentions in one of the plans that East Dean has the potential for 'up to 10 dwellings' and this places a different picture on

the assumption that 10 dwellings should be provided within the village. It is however clear that in considering the potential for development; the Core Strategy goes on to confirm that 10 dwellings should be provided. The Policy makes it clear that 10 dwellings be provided and makes no reference to 'up to 10'.

#### The Impact on the National Park

- 8.13 If a development for around 10 dwellings could be said to be acceptable in principle, the main issue for consideration becomes whether the proposed development would conserve or enhance the natural beauty of the SDNP. Paragraph 115 of the NPPF states that great weight should be given to this as the National Park has the highest status of protection in relation to landscape and scenic beauty.—Landscape - The Landscape Officer raised objection to the original scheme, in particular to the scale and massing of the development and the perceived need for a new gateway feature, which were considered to have a significant adverse impact on the character of this part of the village and the National Park and the interface between the village and the countryside. In response to these concerns amended plans were submitted which reduced the size and relocated the large detached dwelling at the western end of the development further north into the site and broke up the terrace of three properties also on the western side of the site. These changes allow a view corridor to be maintained from the south of East Dean into the field to the west of The Fridays.
- 8.14 The application site lies within the designated heritage coast and is therefore a sensitive location. The development to the immediate north currently denotes the edge of the southern part of the village as the road carries on in a southerly direction towards Burling Gap. The approach from Burling Gap towards East Dean currently has a view of the side elevation of the last property at The Fridays and a non-descript garage building. The proposed development would effectively face the cricket pitch and provide a more pleasing view on the approach from the south and enhance the character of the Heritage Coast at this point.
- 8.15 Other changes included setting back of the garden boundaries to the southern boundary creating a wider verge and the opportunity for planting and an area of buffer planting. The exact nature of this planting would need to be controlled by planning condition.
- 8.16 Design – The Design Officer raised objection to the original scheme, concerned with the scale and massing of the large house at the western end; the parking, drives and access; the amenity space to plots 5-11; and the overall design approach which was considered to create a singular monolithic impression, lacking sufficient subtlety and responsiveness to the historic village.
- 8.17 The changes made to the scheme include the relocation of the large house; the elimination of flat roof elements; the breaking up of the terrace; altering driveways, parking areas and accesses; the provision of traditional flint walls; altering chimneys; removal of pergolas; and the reduction in tile hanging.
- 8.18 The Design Officer remained concerned with the scheme, mainly in relation to the creation of a buffer strip between the south and west fields, inappropriate boundary treatment (fences and hedges), unattractive parking areas to plots 5-7, fussy internal parking arrangement and also concerns about building types.
- 8.19 The concerns are noted and there certainly could be some merit in additional thought being given to more appropriate boundary treatment to the frontages. The remaining concern about house types is also acknowledged. However it is considered, on balance, that the applicants have presented a scheme with elements that link visually to the vernacular in the village to result in a scheme which links well with the character of the surrounding area. Therefore, notwithstanding the Design Officers remaining concerns it is considered that the scheme is acceptable in design terms.

#### Overall – Landscape and Design

- 8.20 It is considered, then, that the amendments to the plans are sufficient to overcome the original landscape and design objections to the scheme. Whilst it is acknowledged that there will inevitably be a visual impact on the SDNP due to this being a green field site on the edge

of the village, it is considered that development here will not have an unacceptable impact. This assessment is generally supported by the recently published SDNPA SHLAA, where; this site was acknowledged as having potential for development.

- 8.21 From an ecology perspective, it is considered that given the location, nature and scale of the proposed development, there are unlikely to be any significant impacts. The habitats of greatest ecological significance are in the fields to the north and west of the proposed development and along these boundaries.

#### Affordable Housing

- 8.22 There is a need for affordable housing in East Dean. The Housing Officer advises that as of 2 February 2015 there were four applicants on Wealden Council's Housing Register with a proven local connection to the parish. The Council's 2009 Housing Needs Survey identified a need for seven new affordable homes in the parish every year and further analysis showed that five of the seven households would only be able to afford social rented accommodation. There are currently 10 affordable homes in the parish. It should be noted that there has only been one letting since 2008.
- 8.23 If it is accepted that this site in the countryside can be considered in the same way as an allocated site for housing in the village, then, the proposal would accord with the affordable housing policy. The proposal is for 11 dwellings; 4 of which would be affordable. This equates to 36.4%. Policy WCS8 Affordable Housing requires 35% of the number of dwellings in any scheme of 5 or more dwellings or on sites of over 0.2 hectare to be affordable. The policy states that the provision should incorporate a mixture of tenures but the presumption is that around 80% of the total number of affordable homes provided will be for social rented accommodation with the remainder being for intermediate accommodation.
- 8.24 In this case, the Housing Officer has advised that the scheme complies with the policy; however, all the units must be for rent and will be allocated to those on the Wealden District Council's Housing Register in accordance with the Council's Rural Lettings policy giving preference to those with a connection to East Dean. It is understood that this is acceptable to the applicants. The requirements will be set out in appropriate section 106 legal agreement.
- 8.25 A query has been raised in relation to a recent appeal decision outside the Park to the north of Eastbourne where the Planning Inspector highlighted that more significant scale of allocations provided at a nearby strategic site would reduce the weight attached to the need for housing at the appeal site. The query raised by a resident is that a strategic site being brought forward beyond the Park boundary between Willingdon and Polegate for 700 dwellings is a comparable situation where the affordable housing needs of East Dean could be met. It is however considered that there are significant differences between the application site and the appeal decision highlighted. In the case of the appeal decision, the strategic sites were significantly closer to the appeal site. In this particular case, there is some significant distance between the main settlement of East Dean and the strategic site in Polegate/Willingdon. It is also worth noting that there is an acknowledged affordable housing need in the village of East Dean as set out above and if this can be met within the village, this should be encouraged.
- 8.26 In conclusion on this matter, the proposed affordable housing provision is considered to be acceptable. However, given the Policy objection in relation to the use of the recreation ground as set out below, refusal is recommended on the matter of affordable housing, given that the required provision has not been secured by a legal agreement.

#### Cricket ground

- 8.27 There has been some concern raised over the impact of the development on the adjacent recreation ground, particularly its use for cricket. The proximity of the cricket square to the application site is such that it is not considered that the residential properties would be sufficiently protected from cricket balls hitting the houses and potentially damaging the properties. Concerns are raised that this increases the potential for the local cricket club to have to increase insurance cover which could make the continued use of the pitch

untenable. Section 8 of the NPPF focuses on promoting healthy communities and paragraph 70 in particular requires planning decisions to guard against the loss of valued facilities and to ensure an integrated approach to considering the location of housing, economic uses and community facilities and services. Sport England raised objection to the proposal on this very point but considered that its objection can be overcome, if the cricket square could be relocated 20 metres to the south and that it is re-constructed to ECB standards.

- 8.28 It is understood that the applicant has discussed these matters with the East Dean Cricket Club and the Parish Council and to this end it was resolved at the Parish Council meeting on 4 December 2014 to approve a request from the Cricket Club for permission to move the cricket square 25 yards south, subject to there being no cost to the Council and to the obtaining of a non-averse view from an appropriate sporting authority. In the interest of transparency, it is noted that the motion as drafted by the Club was: To approve a request from the Cricket Club for permission to move the cricket square 25 yards south, at the expense of the Gilbert Estate, subject to planning permission being granted for their proposed development at The Fridays. However, Members objected that the move should not be made purely to facilitate a planning application which did not have the support of the community. If the move were made, it should be subject to obtaining a non-averse view from an appropriate sporting authority. Subsequent to this at a more recent meeting of the Parish Council it was resolved that the Council would not enter into a legal agreement to facilitate development which was clearly against the wishes of the local community.
- 8.29 Given that the applicant is unable to secure the relocation of the cricket pitch. It is considered that the requirements of Sport England cannot be accommodated in the Section 106 legal agreement. In the absence of the matter being able to be addressed it is considered that the proposal is contrary to Policy WCS13 of the Wealden District Joint Core Strategy Local Plan and Section 8 of the NPPF.

The Criteria Tests for Exceptional Development should Members conclude that the development is major

- 8.30 Were Members minded to conclude that the application should be considered as 'major development', regard would need to be given to the provisions of Paragraph 116 which states:
- "Planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest. Consideration of such applications should include an assessment of:
- The need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
  - The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and
  - Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated."
- 8.31 The default position is that permission should be refused for major development in these areas except in **exceptional** circumstances and where they can be demonstrated to be in the public interest. The first of the criteria includes an assessment of the need for the development, the impact of permitting it or refusing it on the local economy. Quite clearly there is an acknowledged need for the development as set out in the adopted Joint Core Strategy of 2013. The impact of refusing the application would mean that the need still remains and would have to be accommodated elsewhere in East Dean.
- 8.32 In looking at the cost of and scope for developing elsewhere outside the site or meeting the need for it in some other way, the applicant has undertaken a report assessing alternative sites. The report has regard to the Wealden Council interim SHLAA Statement January 2012. The first site given consideration was Land to the East of the Vicarage, Gilberts Drive. The conclusion, as reached by the Council, was that the site could not accommodate a minimum number of 6 dwellings in order to contribute to affordable housing. Land adjacent to the village hall was also assessed and discarded given the site was constrained by listed buildings and the proximity to the Conservation Area. Additional infilling throughout the

village was considered but discarded given that such infilling would impact on the more spacious character of such sites. Other sites were also discarded due to landscape concerns in more prominent locations.

- 8.33 Obviously there is a judgement to be made on the impact of the development on the environment, landscape and recreational opportunities which has been set out in paragraphs 8.19-8.27 and 8.32-8.34 respectively; however it is considered that this scheme could be achieved without having an adverse impact. Therefore, if members were minded to conclude that the development is major, it is also arguable that there are exceptional circumstances why the principle of development should be approved (notwithstanding the objection raised in relation to the cricket ground at paragraphs 8.27-8.29)

#### Other Issues

- 8.34 The Highway Authority raises no objections to the proposal subject to appropriate conditions. The proposals include the continuation of the footpath along Gilberts Drive in front of the properties and leading to the recreation ground. Whilst this represents an urbanising feature, it is considered desirable and would improve connectivity to the recreation ground. This element along with others would require appropriate legal agreements with the highway authority.

### **9. Conclusion**

- 9.1 This proposal for a development of 11 dwellings, including 4 affordable homes, sits on the southern end of East Dean village on a Greenfield site. The site has come forward in response to the allocation for 10 dwellings in policy WCS 6 of the Joint Core Strategy. The National Park has not produced a Site Allocations DPD to date and this will not come about until the Core Strategy is adopted in June 2017. This application has to be considered in light of these time scales and the need to show a five year housing land supply. Whilst it is considered that the development will have some localised impact it is not considered to be a major development for the purpose of paragraph 116 of the NPPF. The Landscape Officer is satisfied that the proposal as amended is acceptable and the amendments made to the design of the scheme are considered to go far enough to ensure that the scheme will not be detrimental to the visual amenities of the area.
- 9.2 Notwithstanding the general presumption in favour of development in Policy and landscape terms, it is considered that it has not been demonstrated that the proposal would result in the long term retention of the recreation facility for local sports such as the cricket club due to proximity to the proposed residential development. In the absence of a legal agreement (or the prospect of such an agreement being secured), the proposal is contrary to Policy WSC13 of the Wealden Core Strategy and refusal is recommended.
- 9.3 Whilst the applicants intention to meet the requirements in relation to affordable housing is noted, In the absence of a legal agreement to secure the required affordable housing, the application is also considered to be contrary to Policy WCS8 of the Joint Core Strategy.

### **10. Recommendation and Reasons for Refusal**

- 10.1 It is recommended that the application be refused, for the following reasons:-
1. It has not been demonstrated that the proposed development could be achieved whilst ensuring the long term retention and use of the adjoining recreation ground due to the proximity of the dwellings to the existing cricket pitch. In the absence of a legal agreement to secure the relocation of the cricket square to the south (or the prospect of such an agreement being secured), the proposal is considered to be contrary to Policy WCS13 of the Wealden District Joint Core Strategy Local Plan (February 2013) and the NPPF.
  2. In the absence of provision having been made to secure the delivery and retention of affordable housing, the proposal would be contrary to Policy WCS8 of the Wealden District Joint Core Strategy Local Plan (February 2013) and the NPPF.

## **11. Crime and Disorder Implication**

11.1 It is considered that the proposal does not raise any crime and disorder implications.

## **12. Human Rights Implications**

12.1 This planning application has been considered in light of statute and case law and any interference with an individual's human rights is considered to be proportionate to the aims sought to be realised.

## **13. Equalities Act 2010**

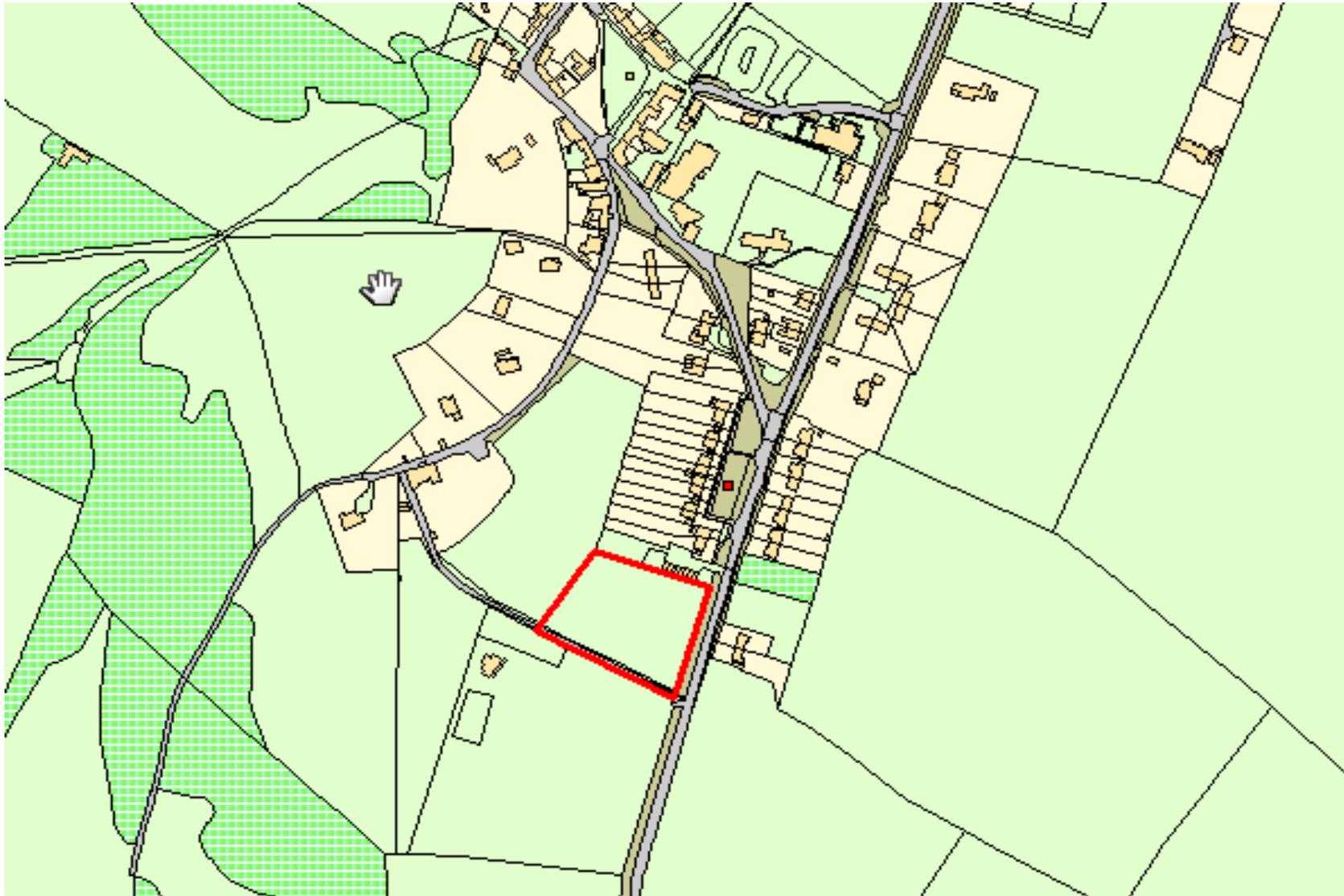
13.1 Due regard, where relevant, has been taken to the South Downs National Park Authority's equality duty as contained within the Equalities Act 2010.

## **14. Proactive Working**

14.1 In reaching this decision the Local Planning Authority has worked with the applicant in a positive and proactive way, in line with the NPPF. This has included the provision of pre-application advice from the SDNPA Development Management Officer and SDNPA Design Officer, the opportunity to provide additional information to overcome technical issues and the opportunity to amend the proposal to add additional value as identified by SDNPA Officers and consultees.

**Tim Slaney**  
**Director of Planning**  
**South Downs National Park Authority**

Contact Officer: Rob Ainslie  
Tel: 01730 819274  
email: [robert.ainslie@southdowns.gov.uk](mailto:robert.ainslie@southdowns.gov.uk)  
Appendices Site Location Map  
SDNPA Consultees Director of Planning & Legal Services  
Background Application Documents  
Documents [http://planningpublicaccess.southdowns.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=N9SKS6TUIBW00National Planning Policy Framework](http://planningpublicaccess.southdowns.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=N9SKS6TUIBW00National%20Planning%20Policy%20Framework)  
National Planning Policy Framework  
<https://www.gov.uk/government/publications/national-planning-policy-framework--2>  
National Planning Practice Guidance  
<http://planningguidance.planningportal.gov.uk/>  
SDNP Partnership Management Plan  
[http://www.southdowns.gov.uk/\\_data/assets/pdf\\_file/0011/409799/SD\\_ManPlan\\_2013\\_15.pdf](http://www.southdowns.gov.uk/_data/assets/pdf_file/0011/409799/SD_ManPlan_2013_15.pdf)  
Wealden District (Incorporating Part of the South Downs National Park) Core Strategy Local Plan 2013 (Joint Core Strategy)  
[http://www.wealden.gov.uk/Wealden/Residents/Planning\\_and\\_Building\\_Control/Planning\\_Policy/CoreStrategy/Planning\\_Core\\_Strategy\\_Local\\_Plan.aspx](http://www.wealden.gov.uk/Wealden/Residents/Planning_and_Building_Control/Planning_Policy/CoreStrategy/Planning_Core_Strategy_Local_Plan.aspx)  
Wealden Local Plan 1998.  
[http://www.wealden.gov.uk/Wealden/Residents/Planning\\_and\\_Building\\_Control/Planning\\_Policy/Former\\_Local\\_Plan/AdoptedWealdenLocalPlan](http://www.wealden.gov.uk/Wealden/Residents/Planning_and_Building_Control/Planning_Policy/Former_Local_Plan/AdoptedWealdenLocalPlan)  
Legal Opinions on Definition of Major Applications (Maurici Opinions)  
<http://southdowns.gov.uk/planning/planning-applications/called-in-applications/>



This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationery Office Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. South Downs National Park Authority, Licence No. 100050083 (2012) (Not to scale)